IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.816 OF 2005

Shri Mukhtiyarsingh @)
Babbi Dilipsingh Multani,)
Residing at Kanhe, Taluka Maval,)
District - Pune. age 56 years.)..Petitioner

Vs.

1. The Collector, Pune,)
District Pune.)

2. The Divisional Commissioner,)
Pune Division, Pune.)

3. The State of Maharashtra.)..Respondents

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Shri N.P.Deshpande for the Petitioner.

Shri Bharat H.Mehta, APP for respondents.

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CORAM : R.M.S.KHANDEPARKAR &
P.V.KAKADE, JJ.

DATED : 5th MAY, 2005.

JUDGMENT : (Per R.M.S.Khandeparkar, J)

1. Heard. Rule. By consent, the rule is made returnable forthwith.

2. The petitioner challenges the order dated 8th

July, 2003 passed by the District Magistrate, Pune, as well as the order dated 27th January, 2005 passed by the Divisional Commissioner of Pune, in relation to the revocation of the arms license which was granted to the petitioner and further for direction to the respondents to grant the said license and deliver his weapon to him.

3. Few facts relevant for the decision are that the petitioner was a licence holder of the Arms License under the Arms Act, 1959, hereinafter called as "the said Act", and he had been holding such licence since 1999. The said licence was renewed in the month of February, 2003. Prior to that, there was a criminal case initiated against the petitioner in the year 2002 under the C.R.No.161 of 2002 for the offences punishable under Sections 325, 504, 506 read with 34 of Indian Penal Code. The said case is still pending for disposal. The show cause notice for revocation of licence came to be issued against the petitioner in the month of July, 2003 on the basis of an incident that had occurred and in respect of which, the said criminal case was instituted against him. However, the said incident had occurred prior to renewal of the licence. The petitioner replied to the show cause notice. However, by the order dated 8th

July, 2003, the Collector confirmed the notice and revoked the licence of the petitioner. The appeal against the said order was dismissed by the Divisional Commissioner, Pune Division, Pune, on 27th January, 2005. Hence, the present petition.

4. The only question which is sought to be raised in the matter is whether the authority can cancel the arms licence on the basis of an incident which had occurred prior to the renewal of the said licence, and in that regard, reliance is placed in the decision of the Division Bench of this Court in **Mohanlal Chandulal Sarai v. State of Maharashtra & Anr.,** reported in 1993 Cri.L.J. 3298.

5. The Chapter III of the said Act deals with the provisions relating to licences. Section 15 speaks about the duration and renewal of licence. Sub-section (1) thereof provides that, a licence under the said Act shall, unless revoked earlier, continue to be in force for a period of three years from the date on which it is granted. Sub-section (3) thereof provides that every licence shall, unless the licensing authority for reasons to be recorded in writing otherwise decides in any case, be renewable for the same period for which the licence was

originally granted and shall be so renewable from time to time, and the provisions of Sections 13 and 14 shall apply to the renewal of a licence as they apply to the grant thereof. Section 13 refers to grant of licences whereas Section 14 refers to refusal of licences. Section 17, which is relevant for the purpose of decision in the matter, relates to the subject of variation, suspension and revocation of licences. Sub-section (3) thereof enumerates the grounds for suspension of a licence. Sub- section (5) thereof requires to record in writing the reasons for suspension of such licences. Sub-section (6) provides that "the authority to whom licensing authority is subordinate may by order in writing suspend or revoke a licence on any ground on which it may be suspended or revoked by the licensing authority; and the foregoing provisions of this section shall, as far as may be, apply in relation to the suspension of revocation of a licence by such authority." In other words, the grounds which are available for suspension of a licence are also available for revocation of a licence. Clause (b) of sub-section (3) of section 17, which relates to the ground on which a licence can be suspended, empowers the licensing authority to suspend or revoke the licence when such authority deems it necessary for the security of the public peace or for

public safety. Clause (a) thereof empowers the authority to suspend the licence if it is satisfied that for any reason, the holder of the licence is unfit for a licence under the said Act. Obviously, therefore, the wide powers are given to the licensing authority as well as higher authority to deal with the licence in relation to the arms. It also empowers the authority to suspend or revoke a licence once it is issued to a party, if such authority finds that the holder of a licence is unfit or that such revocation or suspension is necessary for the security of the public peace or for the public safety. Undoubtedly, in the case in hand, there is a criminal case filed against the petitioner under Section 325 of the Indian Penal Code. The proceedings under Section 325 arose on account of voluntarily causing grievous hurt allegedly by the acts of the petitioner. A person who is accused of voluntarily causing grievous hurt to another person can hardly be said to be a fit person to hold arms licence which permits use of any weapon.

6. Perusal of the order dated 8th July, 2003 discloses that the licence had been revoked essentially on account of those proceedings arising out of the C.R.No.161 of 2002 lodged under Sections 325, 504, 506 read with 34 of the Indian Penal Code.

7. The Division Bench of this Court in **Mohanlal Chandulal Sarai's case (supra)**, undoubtedly, had held that once the renewal of licence is granted, subsequent revocation of licence within short time on the ground of involvement of licensee in a criminal case would not be valid. Undoubtedly, in the said case, merely because a criminal case being C.R.No.328 of 1991 was found to have been registered against the petitioner that the licence was sought to be revoked after its renewal. It does not appear to be a case where there was prosecution under Section 325 of the Indian Penal Code. Besides, the decision nowhere discloses the provisions of Section 17 of the said Act having been considered apart from making a passing reference to the said provisions of law. The decision is not essentially on the scope of the power of the authority under Section 17 but it is only on the effect of renewal of licence. Being so, the said decision is of no help to the petitioner in the facts and circumstances of the case, apart from the ratio of the said decision being totally different and is not attracted in the facts and circumstances of the case in hand. Certainly, if the petitioner is acquitted in the criminal case, nothing forbids the petitioner from applying for the fresh licence. In case any such

application is filed, the same shall be considered on its own merits.

8. For the reasons stated above, therefore, we do not find any case having been made out for interference in the impugned order, and hence the petition fails and is hereby dismissed. Rule is discharged with no order as to costs.

(R.M.S.KHANDEPARKAR, J)

(P.V.KAKADE,J)